
Appeal Decision

Site visit made on 29 August 2023

by K E Down MA (Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal Ref: APP/C1950/D/23/3324345

50 Plough Hill, Cuffley, Potters Bar, Hertfordshire, EN6 4DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Shailen Patel against the decision of Welwyn Hatfield Council.
 - The application Ref 6/2023/0297/VAR, dated 7 February 2023, was refused by notice dated 4 April 2023.
 - The application sought planning permission for "Variation of condition 3 (approved plans) on planning permission 6/2019/2591/HOUSE" without complying with condition 2 attached to planning permission Ref 6/2021/1144/VAR, dated 10 June 2021.
 - The condition in dispute is No 2 which states that: The development/works shall not be started and completed other than in accordance with the approved plans and details: Plan Numbers: 760 -r(rev1) - 05 Existing and Proposed Front and Rear Elevations 10 June 2021; 760 -r(rev1) - 01 Location Plan & Block Plan 10 June 2021; 760 -r(rev1) - 03 Elevations for Gated Wall Proposal & Materials 10 June 2021; 760 -r(rev1) - 02 Frontal Access and Gated Wall 10 June 2021; 760 -r(rev1) - 04 Proposed Front Gated Wall and Existing and Proposed Block Plan (1:200) 10 June 2021; 760 -r(rev1) - 06 Crown Roof Section Detail 10 June 2021; 760 -r(rev1) - 08 Existing and Proposed Ground Floor Plan 10 June 2021; 760 -r(rev1) - 07 Existing and Proposed Left & Right Elevations 10 June 2021; 760 -r(rev1) - 10 Existing Roof Plan and Proposed Loft Plan 10 June 2021; 760 -r(rev1) - 09 Existing and Proposed First Floor Plan 10 June 2021; 760 -r(rev1) - 11 Existing and Proposed Roof Plan 10 June 2021.
 - The reason given for the condition is: To ensure that the development is carried out in accordance with the approved plans and details.
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Decision

1. The appeal is allowed and planning permission is granted for "Variation of condition 3 (approved plans) on planning permission 6/2019/2591/HOUSE" at 50 Plough Hill, Cuffley, Potters Bar, Hertfordshire, EN6 4DS in accordance with the application Ref 6/2023/0297/VAR made on the 7 February 2023 without complying with condition No 2 set out in planning permission No 6/2021/1144/VAR granted on 10 June 2021 by the Welwyn Hatfield Council, but subject to the other condition imposed therein and set out below:
 - 1) Any upper floor window located in a wall or roof slope forming a side elevation of the development hereby approved must be:
Obscure glazed; and
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Non-opening (unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed);

And shall be retained in that form thereafter.

Background

2. Planning permission was originally granted at the appeal site for the erection of a ground floor side/rear and first floor extension, including the construction of a rear dormer and installation of rooflights to facilitate the creation of habitable space within the loft and erection of front boundary wall and gates under permission ref. 6/2019/2591/HOUSE dated 13 January 2020.
3. A variation to Condition 3 (the plans condition) on this permission was subsequently approved under planning permission ref. 6/2021/1144/VAR dated 10 June 2021 and a new planning permission was created. This appeal seeks to carry out the development without complying with Condition 2 (the plans condition) of the new permission to enable the boundary and gates as built to remain.

Main issue

4. There is one main issue which is the effect on the character and appearance of the host dwelling and the street scene of Plough Hill if condition 2 is varied/ removed and the gates, railings and walls as built are allowed to remain.

Reasons

5. The appeal dwelling is a large, detached house, set back from the highway behind a low wall topped with railings and a wide, vehicular entrance gate. Both the house and the boundary wall have a white rendered finish which makes them conspicuous in the street scene, especially as the dwelling is on a more open section of highway, close to a curve in the road and opposite a junction. Nevertheless, this finish is in keeping with other nearby buildings, including the public house opposite, and has been permitted previously by the Council. I shall therefore restrict my further consideration to the railings and gate.
6. Planning permission exists for side boundary walls without railings and for a front boundary wall with railings and a flat-topped gate. The boundary that has been constructed includes railings above the side boundary walls, a higher front wall with variable height railings, a vehicular gate some 4m wide and a maximum of about 2m high with a curved top and a pedestrian gate. The gates and railings are mainly black but detailing, including on the top edge, is picked out in gold.
7. The surrounding street scene, especially to the north-west of the appeal dwelling on East Ridgeway and Hill Rise, is characterised by large, detached dwellings set back from the highway. A significant number of these have gated entrances, including with curved tops, and railings. Where railings are above walls, the latter are mostly of red brick. Some are backed by hedgerow planting. The gates and railings vary in height, width and design but frontages enclosed by gates and railings are characteristic of the area.

8. The railings at the appeal dwelling are not noticeably higher than those at other dwellings in the surrounding area. Although the gates are amongst the widest and highest, they did not appear to be materially higher or wider than others nearby. Neither did I find the more ornate ironwork excessive or strident. I accept that the gold paint, which highlights parts of the gates and the top of the railings, is noticeable and unusual. However, it is not unique in the area and in any case would not, in itself, justify dismissing the appeal. I therefore find that the gates and railings respect and relate satisfactorily to the character and context of the host dwelling and the surrounding area such that they are compatible with the host dwelling and wider street scene.
9. The Council points out that other brick frontages are more muted than the white rendered wall at the appeal site. That is so. However, as set out above, it is clear from the evidence that this finish, which matches the dwelling, has previously been found acceptable and permitted by the Council. Moreover, the modest increase in wall height is not sufficient to render it materially more obtrusive or otherwise unacceptable in the street scene.
10. It is concluded on the main issue that if condition 2 is removed and the gates, railings and wall, as built, are allowed to remain they would have no materially detrimental effect on the character or appearance of the host dwelling or the street scene of Plough Hill. In consequence they would comply with Policies D1 and D2 of the Welwyn Hatfield District Plan, 2005, Policies SADM11 and SP9 of the Welwyn Hatfield Draft Local Plan Proposed Submission, August 2016, the Council's Supplementary Design Guidance and the National Planning Policy Framework. Taken together and amongst other things these expect new development to be of a high quality of design that is visually attractive that is sympathetic to, respects and relates to the character and context of the area, such that it maintains and where possible enhance the character of the area.
11. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed, and Condition 2 should be deleted. Since the development has been completed, a condition on the new planning permission requiring it to be carried out in accordance with the approved plans is not necessary but I shall repeat Condition 1 relating to the need for upper floor side facing windows to be obscure glazed and with limited opening, in order to protect the future living conditions of adjoining occupiers.

KE Down
INSPECTOR